REMARKS

By this amendment, Applicants make amendments to claim 5. Claims 1, 2, and 6-11 stand withdrawn. Claims 3-5 are thus now presently under examination in the present application. Applicants submit that the present amendments place this application in condition for immediate allowance for at least the reasons as set forth below.

Specifically, by this amendment, Applicants have amended claim 5 to include language indicating that the compound described in claim 5 is capable of transferring wild type p53 from an inactive conformation into an active conformation capable of inducing apoptosis. Support for this amendment can be found, for example, at page 3, paragraph 41 of the specification of the present application, and the language is found in original Claim 1. Accordingly, the present amendments do not add any new matter to the Application.

As an initial matter, in the Official Action of December 4, 2007, the Examiner made several minor objections to the wording of claim 5. Specifically, the Examiner objected to the claim for a lack of spacing between words and for the use of "CI" when referring to C1. These objections have now become moot by virtue of the present amendments. Accordingly, Applicants respectfully request that the Examiner's objections be withdrawn

In the Official Action, the Examiner then rejected claims 3-5 under 35 U.S.C. §103(a) as being obvious over the International Patent Application of Bykov, et al. (WO/2002/024692) in view of the Hartmann, et al. reference (Overexpression and Mutations of p53 in Metastatic Malignant Melanomas, Int. J. Cancer: 67, 313-317

(1996)). Specifically, the Examiner asserted that one skilled in the art would find it obvious to apply the teaching of Bykov, et al. to use 2,2-bis(hydroxymethyl)quinuclidin-3-one to treat human tumors which contain inactivated p53, including malignant melanoma as taught by Hartman, et al. For the reasons set forth below, Applicants respectfully traverse the Examiner's rejection and request that it be withdrawn.

As discussed above, claim 5 of the present application, as amended, is now directed towards a method of treating malignant melanoma and/or inhibiting undesired angiogenesis by administering a compound that is capable of transferring wild type p53 from an inactive conformation into an active conformation capable of inducing apoptosis. Contrary to the Examiner's assertion, the Bykov reference only teaches reactivation of a mutant p53. No other forms of p53 are taught or suggested by the Bykov reference. Moreover, as disclosed by the Hartman reference and others, in melanoma cells, wild type p53 is predominant. Therefore, there would be no motivation for one skilled in the art to use the compounds of Bykov in treating malignant melanoma, much less inhibiting undesired angiogenesis. The compounds taught by Bykov have clearly not been suggested for use in treating malignant melanoma and/or inhibiting undesired angiogenesis. Accordingly, the Bykov reference, either singly or in combination with the Hartman reference, fails to render obvious the claims of the present application as amended.

Lastly, in the Official Action, the Examiner rejected claims 3-5 on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1-2 of U.S. Patent No. 6,921,765 in view of Hartman and provisionally rejected claims 3-5 on

the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1-2 of co-pending Application No. 10/590,054 in view of Hartman, et al. In particular, the Examiner has asserted that claims 1-2 of U.S. Patent No. 6,921,765 and claims 1-2 of co-pending Application No. 10/590,054 claim the treatment of cancer and the Hartmann reference teaches that malignant melanoma is a form of cancer. The Examiner thus asserts that one skilled in the art would find it obvious to apply the cancer treatment of the cited references to specific cancers. For the reasons set forth below, Applicants respectfully traverse the Examiner's rejections and request that they be withdrawn.

By this amendment, claim 5 of the present application has been amended to recite a method of treating malignant melanoma and/or inhibiting undesired angiogenesis by administering a compound that is capable of transferring wild type p53 from an inactive conformation into an active conformation capable of inducing apoptosis. The cited patent and the cited co-pending patent application only mention the reactivation of a mutant p53 and not a wild type p53. Furthermore, as discussed above, the Hartman reference teaches wild type p53 is predominant in melanoma cells. Thus, one skilled in the art would have no motivation to use the compounds found in claims 1 and 2 of the cited references in a method of treating malignant melanoma and/or inhibiting undesired angiogenesis. Accordingly, claims 3-5 of the present application would not be obvious variations of the inventions recited in claims 1-2 of the cited references. As such, claims 3-5 of the present invention are clearly patentably distinct from the claims of the cited

references and Applicants respectfully traverse the Examiner's rejections and request that they be withdrawn.

In light of the amendments and arguments provided herewith, Applicants submit that the present application overcomes all prior rejections and objections, and has been placed in condition for allowance. Such action is respectfully requested.

Respectfully submitted,

Date: February 27, 2008

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